



A power of attorney is a legal document which provides the authority for another person to make decisions on behalf of someone else (the donor). This may be because the donor no longer has capacity or because help is required with financial decisions.

### **Why is power of attorney important?**

It is impossible to predict the future, but it is possible to put plans in place to cover certain eventualities.

These things may or may not happen, but having plans in place can offer peace of mind.

Power of attorney can often be misinterpreted as 'handing over control' to someone else, but it would only come into action should someone be in the position of no longer being able to make or communicate decisions, or if permission has been granted whilst mental capacity still remains (such as with financial decisions).

This is known as [mental capacity](#) and there is clear governance around how capacity should be assessed (nobody has the right to make decisions on another person's behalf without their permission, unless it can be shown they lack mental capacity).

Another way of looking at it is it allows someone who appoint people they trust, who they know would make the right decision on their behalf.

### **Types of power of attorney**

There are 3 types of power of attorney:

- 1) Lasting power of attorney - [Health and welfare](#) and [Property and financial affairs](#)
- 2) Enduring power of attorney (in place before 1<sup>st</sup> October 2007).
- 3) Ordinary power of attorney

There are key differences between each type based around capacity and when they become valid. It is important to note someone must be considered to have capacity to make any of the above. If someone is considered to no longer have capacity, an application must be made to the [Court of Protection - GOV.UK](#) to be appointed as a [deputy](#).

### **Lasting Power of Attorney for Health and Welfare (LPA)**

This LPA can only start if someone (the donor) has lost capacity. The person appointed (the attorney) is not permitted to make decisions on behalf of someone whilst they still have capacity.

It is important to decide if those appointed to make decisions (the attorney's) have permission to make decisions about life saving treatment.

Without this, decisions health and care will be made by the professionals involved, such as a doctor or social services.

In this situation, family would still be consulted, but the final decision would lie with the professionals involved.

Find out more at [lasting power of attorney - Health and Welfare](#).

### **Lasting Power of Attorney for Property and Financial Affairs (LPA)**

This LPA can start when someone (the donor) has lost capacity or permission can be given to appoint someone to make decisions, (the attorney) whilst donor still has capacity.

It can be used to cover decisions around things like property, paying bills and arranging repairs to a home.

It is possible to limit the authority someone has to make decisions.

Find out more at [lasting power of attorney - Property and Financial Affairs](#)

### **How to apply**

Applications can be made direct to the [Office of Public Guardian](#). Each LPA costs £82 to register with [Office of the Public Guardian](#), but there are options for a [reduced rate or fee waiver](#) in some cases.

A solicitor may also be used to make an application. This will incur a further fee on top and care should be taken to ensure the solicitor selected is registered with the [Solicitors Regulation Authority](#).

### **Enduring Power of Attorney**

If arrangements were made prior to 1st October 2007 and [enduring power of attorney](#) may be in place.

It only covers financial decisions, and it is not possible to make a new one, as it was replaced by the lasting power of attorney.

An enduring power of attorney [MUST be registered](#), as soon as the person it relates to (donor) starts to lose capacity.

It costs £92 to register, but it may be possible to [get help with fees](#).

### **Ordinary Power of Attorney**

An ordinary power of attorney allows an individual to appoint someone to manage their financial affairs for a temporary period (such as during a period of illness) of time or specific task (selling a property).

Unlike the lasting power of attorney for health/welfare and property/finances, an ordinary power of attorney may only be applied for via a [solicitor](#).

Solicitors will charge a fee on top the fee to register the LPA, unless you qualify for [free or affordable legal help](#).

This is because it does not need to be registered with the [Office of the Public Guardian](#)

It is important to note an ordinary power of attorney will end automatically if the individual loses capacity (which is why it is important to consider longer-term planning with [lasting power of attorney - Health and Welfare](#) and [lasting power of attorney - Property and Financial Affairs](#) is vital).

Find out more at [Managing affairs for someone else - Citizens Advice](#)

### **Important conversations**

Whilst it may be difficult to imagine a future different to the present moment, it is important to have open and honest conversations with those around you.

This helps to provide peace of mind and reassurance to those close to you that your wishes continue to be respected.

Trust is a key element when it comes to choosing who would be best to fulfil this role. It is important to ensure they can make sound judgements.

It can also be helpful to consider how well they manage their own affairs too, as this can be a good indicator as how suitable they may be as an attorney.

It is also possible to choose a [solicitor](#) to carry out the role, but care should be taken to ensure they are regulated.

Setting up a power of attorney is always a personal choice, but thinking about the possibilities of tomorrow, today, can create space for living in the now, with peace of mind that whatever may happen in the future is covered.